

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 11562-000]

Robert Craig; Notice of Surrender of Preliminary Permit

June 11, 1997.

Take notice that Robert Craig, Permittee for the Icy Gulch Project No. 11562, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11562 was issued March 11, 1996, and would have expired February 28, 1999. The project would have been located on Sheep Creek, near Juneau, Alaska.

The Permittee filed the request on May 16, 1996, and the preliminary permit for Project No. 11562 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,
Secretary.

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DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. CP96-596-000]

El Paso Natural Gas Company; Order To Show Cause

June 11, 1997.

On June 25, 1996, El Paso Natural Gas Company (El Paso) filed a prior notice request to construct and operate a delivery point on its Santan Line in Maricopa County, Arizona to deliver natural gas to Southwest Gas Corporation (Southwest).

Thereafter, El Paso filed a notice of withdrawal of its prior notice request, citing a 1981 Gas Sales Agreement between El Paso and Salt River Project Agricultural Improvement and Power District (Salt River). The 1981 Gas Sales Agreement provides that the Santan Line will not be used without Salt River's consent for any purpose except the transportation of gas to Salt River.

On August 16, 1996, Southwest filed in opposition to El Paso's notice of withdrawal. Southwest contends that

the Santan Line facilities have been incorporated into El Paso's jurisdictional open-access interstate transmission system and that El Paso's decision not to proceed with the construction of the delivery point constitutes discriminatory denial of access.

For the reasons discussed below, the Commission is requiring El Paso to show cause why it should not be required to construct and operate the delivery point for and provide the proposed transportation service to Southwest if capacity is available.

I. Procedural Matters

Notice of El Paso's prior notice request for authorization to construct and operate a delivery point to permit the transportation and delivery of natural gas to Southwest under El Paso's blanket certificate was published in the **Federal Register** on July 8, 1996 (61 FR 35729).¹ Eight parties filed timely, unopposed motions to intervene.² Timely, unopposed motions to intervene are granted by operation of rule 214 of the Commission's regulations.

On August 7, 1996, El Paso filed a notice of withdrawal of its prior notice request. Salt River filed in support of El Paso's notice of withdrawal on August 14, 1996; at the same time it filed a conditional protest opposing El Paso's prior notice request should the notice of withdrawal not become effective. On August 16, 1996, Southwest filed a motion opposing El Paso's notice of withdrawal.

Thereafter, Salt River and Southwest filed a series of pleadings in the nature of answers and responses to answers. While our rules do not permit answers to answers,³ we may, for good cause, waive a rule.⁴ We find good cause to do so in this instance. Accordingly, to achieve a complete and accurate record, we will accept and consider all tendered pleadings.

II. Background

On January 11, 1982, the Commission issued an order authorizing El Paso to construct and operate 9.9 miles of 12.75-inch diameter pipeline to extend from El Paso's existing 16-inch Ocotillo Pipeline eastward to Salt River's Santan

combined-cycle generating station (Santan Plan) for the transportation and delivery of natural gas for direct salt to Salt River.⁵ This order provided that "[c]osts associated with the construction and operation of the facilities authorized herein shall not be allocated to jurisdictional customers under a Natural Gas Act, Section 4 filing by El Paso."⁶

The 1981 Gas Sales Agreement between El Paso and Salt River, under which the direct sales were initiated, states that the Santan Line will not be used without Salt River's consent for any purpose except the transportation of gas to Salt River.

In 1990, El Paso and Salt River entered into a Transportation Service Agreement regarding the use of the Santan Line. Under the Transportation Service Agreement, Salt River, pursuant to Subpart A of Part 284 of the Commission's regulations, converted its full natural gas requirements under the existing Gas Sales Agreement to firm transportation service. The 1990 Agreement provides that El Paso will continue the same quality of service El Paso provided under the existing Gas Sales Agreement, with only those modifications that are necessary to reflect the conversion of service from sales to transportation.

III. The Parties' Position

Southwest, stating that the 1981 Gas Sales Agreement between Salt River and El Paso has been converted to full requirements firm transportation service, contends that the Santan Line has been incorporated into El Paso's jurisdictional open-access interstate transmission system. Southwest states that El Paso has informed it that Salt River has not paid a surcharge for the sole use of the Santan Line for some time; Southwest infers from this that operation and maintenance costs associated with the Santan Line are recovered by El Paso through its systemwide rates. Southwest contends that all open-access transportation customers should have an equal right of access to any part of the pipeline's integrated transmission system on a non-discriminatory, non-preferential basis subject to the pipeline's operating tariff provisions and delivery and receipt point priorities. Accordingly, Southwest concludes that El Paso's failure to construct the delivery point could constitute a discriminatory denial of access to El Paso's open-access transmission system.

¹ El Paso was granted a Part 157 blanket certificate in El Paso Natural Gas Co., 20 FERC ¶ 62,454 (1982).

² They are: Amoco Production Co., Arizona Public Service Co., Citizens Utilities Co., Colorado Interstate Gas Co., Conoco, Inc., El Paso Municipal Customer Group, Southern Union Gas Co., and Southwest Gas Corp.

³ See 18 CFR § 835.213(a) (1) and (2) (1996).

⁴ 18 CFR § 385.101(e) 1996.

⁵ El Paso Natural Gas Co., 18 FERC ¶ 61,015 (1982).

⁶ *Id.* at 61,021 (Ordering Paragraph D).